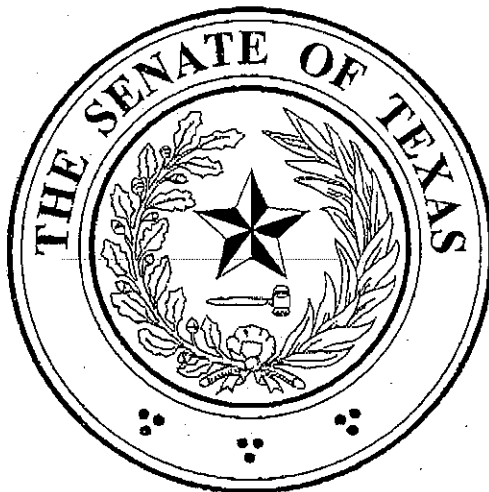


# FACSIMILE



**TEXAS STATE SENATOR  
WENDY R DAVIS  
DISTRICT 10  
TARRANT COUNTY**

DATE:	9/17/09
TO:	Larry Starfield
FAX NUMBER:	214-665-2118
REGARDING:	TCEQ/TXI permit
FROM:	Dan Buda
FAX NUMBER:	(512) 475-3745
TELEPHONE NUMBER	(512) 463-0110
TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 3	



SENATOR WENDY R DAVIS  
District 10

## The Senate of The State of Texas

COMMITTEES  
Education  
International Relations & Trade  
Transportation & Homeland Security  
Veteran Affairs & Military Installations

September 17, 2009

Larry Starfield,  
Acting Regional Director  
Region Six, Environmental Protection Agency  
1445 Ross Avenue  
Suite 1200  
Dallas, Texas 75202-2733

Dear Administrator Starfield,

It's come to our attention that TXI reapplied for a permit to burn tires in its Midlothian, Texas Kiln #5 on August 19<sup>th</sup>, 2009. This is the same permit that the plant submitted and then withdrew in June of this year.

As it did in June, TXI is seeking the permit under the same "pollution control" permit exemption that does not allow for any public notice or public participation in the permitting process.

As we understand it, this exemption is usually only given for "end-of-pipe controls" and not changes in fuel types. We also understand it's only applicable if the pollution control technology being installed is proven to decrease emissions, yet TXI will apparently not be required to host a test burn of tires in Kiln #5 to demonstrate any reductions in emissions before it's issued the permit by the Texas Commission on Environmental Quality on September 19<sup>th</sup>.

According to the Agency's major announcement of September 8<sup>th</sup>, the TCEQ air permitting process has *"provided inadequate opportunities for the public to review permit decisions in Texas, as compared with public participation opportunities provided by other states."*

We believe this TXI tire-burning permit application, and its lack of opportunity for **any** public participation should be Exhibit Number One in making the Agency's case against TCEQ in this regard. It is a situation in need of federal enforcement and remedy.

It is also true that while some kinds of air pollution emissions may decrease as a result of burning tires at TXI, other types could increase. We need to know exactly what the impact of burning million of tires in kiln #5 will be before it starts, not after it begins.

P.O. Box 12068  
Austin, Texas 78711  
(512) 463-0110  
FAX: (512) 475-3745  
Dial 711 For Relay Calls

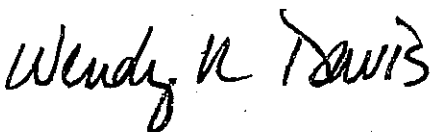
2421 W. 7th, Suite 131, Building A  
Fort Worth, Texas 76107  
(817) 332-3336  
FAX: (817) 332-1230

E-Mail: wendy.davis@senate.state.tx.us

As elected officials concerned with DFW's chronic air quality problems, we urge you to use your authority and intervene in this permitting matter to at least require TXI to perform a fully monitored on-site test burn using the types of tires it plans to burn, in the quantity it plans to burn them. We also ask that you examine whether changing fuel type is a proper use of the pollution control exemption under the federal Clean Air Act.

Since the TCEQ is expected to issue the TXI permit on September 19<sup>th</sup>, we ask that you act immediately in this matter.

Thank you,

A handwritten signature in black ink that reads "Wendy R. Davis". The signature is written in a cursive, flowing style.

Wendy R. Davis  
Texas Senate - District 10

